

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

NANCY CALDWELL, an individual,

Plaintiff,

v.

WELLS FARGO BANK, N.A., successor in
interest to Wachova Mortgage, FSB Successor in
Interest to World Savings Bank; REGIONAL
TRUSTEE SERVICES CORPORATION, a
Washington corporation; all persons or entities
unknown claiming any legal or equitable right,
title, lien or interest in the property described in
this complaint adverse to Plaintiff's title thereto;
DOES 1 THROUGH 25, inclusive

Defendants.

Case No.: 13-CV-01344-LHK

ORDER REGARDING JURISDICTION
AND OPPOSITION TO TEMPORARY
RESTRAINING ORDER

On March 26, 2013, Plaintiff filed her complaint in this matter as well as an application for a temporary restraining order seeking to enjoin the March 28, 2013 foreclosure sale of Plaintiff's home by Defendants. *See* ECF Nos. 1 and 3. Plaintiff withdrew the motion on March 28, 2013. ECF No. 12. Plaintiff's home is located at 203 Calle Manzanita in Santa Barbara, California ("Plaintiff's Property"), which is in the Central District of California. *See* ECF No. 3 at 1.

Moreover, Plaintiff appears to be litigating a separate case against Defendants in the Central District of California regarding the same property, and Plaintiff has unsuccessfully applied for a temporary restraining order in that case. *See Caldwell v. Wells Fargo Bank, NA*, 2:12-cv-09373-JAK-FFM, ECF No. 15¹. Accordingly, the Court ORDERS the parties to file briefs addressing whether this Court has jurisdiction over this matter and whether the Northern District of California is the proper venue for this matter. The parties' briefs shall not exceed two pages. The parties shall file their briefs by April 10, 2013.

In the event that Plaintiff submits another application for a temporary restraining order immediately before the next trustee sale date, the Court ORDERS Defendants to file their opposition to Plaintiff's previously filed application for a temporary restraining order by April 17, 2013. If Plaintiff files another application for a temporary restraining order, and Defendants wish to submit further briefing in opposition at that time, Defendant shall file such briefing the same business day as the filing of the application for a temporary restraining order.

The Court ORDERS Plaintiff to file a statement by April 10, 2013, identifying the following: (1) all closed and pending cases Plaintiff has filed to challenge the foreclosure on Plaintiff's Property; (2) all dates on which a Trustee Sale has been scheduled on Plaintiff's Property and when Plaintiff became aware of each date; and (3) all applications for a temporary restraining order, preliminary injunction, or permanent injunction Plaintiff has filed to enjoin foreclosure on Plaintiff's Property and the disposition of each application.

IT IS SO ORDERED.

Dated: April 3, 2013


LUCY H. KOH
United States District Judge

¹ In the Central District case, Judge Kronstadt initially granted the Plaintiff's request for a temporary restraining order because, as occurred in this case, Plaintiff filed the TRO shortly before the foreclosure sale, thereby depriving the Court of adequate time to review the request. *See Caldwell v. Wells Fargo Bank, NA*, 2:12-cv-09373-JAK-FFM, ECF No. 15 at 1-2. In dissolving the TRO, Judge Kronstadt noted that Plaintiff was at fault for creating the emergency which necessitated the TRO because, despite having been aware that Defendants planned to foreclose upon Plaintiff's Property for eleven months, Plaintiff failed to move for injunctive relief earlier. *Id.* at 2. Judge Kronstadt found that Plaintiff's decision to file the TRO when she did was a "strategic choice." *Id.* at 3.